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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/525,430

02/23/2005

Christian Clauss

MCA-615 US

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EXAMINER

MENON, KRISHNAN S

ART UNIT

PAPER NUMBER

1723

MAIL DATE

DELIVERY MODE

08/28/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/525,430

Applicant(s)

CLAUSS, CHRISTIAN

Examiner

Krishnan S. Menon

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-11 are pending as amended by preliminary amendment of 2/23/05.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term "discharge" or "discharging" in the claims is used by the claim to mean "open/opening", while the accepted meaning is "to relieve of a charge, load, or burden, such as discharging a liquid from a passage." The term is indefinite because the specification does not clearly redefine the term.

Also, the pronoun "they" used to represent the 'selectively operable means' would indicate the means as plural elements, which is confusing, because the 'selectively operable means' appears to be a singular element, a solenoid valve, in applicant's disclosure (26, figure 1).

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It is unclear what is intended to be claimed in claim 1: the combination mechanical support with drainage device and filter unit, or simply a mechanical support with the passage having a closable means which is movable between first and second positions.

Claims 4-6,9 and 10 appear to be repeating what is already claimed in claim 1: reception head and reception surface.

Claim 6: "said connecting means" has no antecedent basis.

Claims 7: "said transverse bore adapted to receive key means for forming a key means" – *the function* of this means plus function language is unclear. Also, the word "adapted" in this means plus function clause would not make any patentable weight to the means plus function clause, because it is only a functional language, and a transverse bore in a reference would read on it.

"Said chamber" and "the portion opposite said reception surface" in claim 11 have no antecedent basis. The need for the hyphens (-) appearing in the text of claim 11 is not understood.

Regarding claim 11, the word "means" is preceded by the word(s) "key" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Claim Rejections - 35 USC § 102/103

1. Claims 1-5 and 7-11 are rejected under 35 U.S.C. 102(e) as being anticipated by, or in the alternative, under 35 USC 103(a) as being obvious over, Ferguson (US 6,884,341).

Applicant's claims use means-plus-function language liberally. Therefore, the structure recited is considered as what is disclosed by the applicant or equivalents thereof.

The claimed invention is about a mechanical support for a filter having a reception surface, a vacuum connection to the reception surface, and a passage connecting the reception surface to the outside, which passage having a solenoid controlled valve to open and close the passage. Claims 7 and 11 recite a bore for holding a key, but the key is not positively recited.

The reference teaches a vacuum filter system having a reception surface which holds a filter, a vacuum connection (see figures 2a-c and 3a-c), a pressure sensor in a passage which vents to the outside, and a filter in the reception surface. Figure 4 shows a series of such devices with a common perpendicular bore to the vacuum channels, which would read on the bore of claims 7 and 11.

The reference does not specifically teach a solenoid valve, but teaches a pressure sensitive check valve in figure 3a-b and vent 214 with valve 213 in figure 2b-c. (see column 7, lines 32-45). This teaching is considered equivalent to the "valve means" claimed, unless applicant can show otherwise. In case the reference check

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valve and/or vent valve are not considered as equivalent, replacing them with a solenoid valve would be within the skill of one of ordinary skill in the art. Also, with respect to the solenoid for driving the valve, solenoids for driving valves are well known in the art, and is therefore, not patentable. "[M]eans plus function limitations are met by structures which are equivalent to the corresponding structures recited in the specification." In re Ruskin, 347 F.2d 843, 146 USPQ 211 (CCPA 1965) as implicitly modified by In re Donaldson, 16 F.3d 1189, 29 USPQ2d 1845 (Fed. Cir. 1994). See also In re Robertson, 169 F.3d 743, 745, 49 USPQ2d 1949, 1951 (Fed. Cir. 1999). Interchanging one equivalent for another is obvious. "Substitution of one known element for another would have yielded predictable results to one of ordinary skill in the art ..." See KSR v Teleflex: 82 USPQ 2d 1385 (2007).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krishnan S. Menon whose telephone number is 571-272-1143. The examiner can normally be reached on 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David R. Sample can be reached on 571-272-1376. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Krishnan S Menon
Primary Examiner
Art Unit 1723

8/24/07